

CUSTOMS DIRECTIVE

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CUSTOMS DIRECTIVE NO. 3240-067A

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SUPERSEDES: 3240-067, 9/28/89

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SUBJECT: MANIFEST DISCREPANCY REPORTING

1 PURPOSE. To provide a standardized method for imported cargo and to allow for uniform tracking of Manifest Discrepancy Reports (MDRs) for carrier compliance.

2 POLICY. The references and procedures outlined in this directive will be followed to ensure consistency and uniformity in the processing of Manifest Discrepancy Reports.

3 AUTHORITIES/REFERENCES. Customs Regulations Parts 4.12, 18.6, 18.8, 19.44, 122.49, 122.95, 122.120, 123.9, 146.37, 158.2, 158.5, 19 USC 1448, 1508, 1584, Customs Directive 4410-016 dated 4/30/92.

4 DEFINITIONS. For purposes of this directive, an MDR is a report that is filed by any party discovering a discrepancy to manifested cargo, including but not limited to the importing carrier, a subsequent in-bond carrier, a cartman or lighterman, or an importer. Discrepancies mainly include any change to manifested quantities, but may also include any change to the manifest information.

4.1 The time period for the filing of an MDR is as follows: 60 days for vessel, 30 days for aircraft, and 60 days for vehicle carrier.

5 RESPONSIBILITIES. CMC Directors and Port Directors must ensure compliance with this directive. Port Directors are responsible for ensuring that Post Audit Teams accomplish a broad range of sampling of carrier records to measure compliance.

6 PROCEDURES.

6.1 The Customs laws and regulations require that imported merchandise be manifested, be accounted to Customs and any discrepancies between the manifest and the actual quantity or identity of the imported merchandise be reported to Customs. Responsibility for the reporting of discrepancies rests with the importing carrier and with the party that last receipted for the full amount of merchandise listed on the manifest, in-bond or transfer document. An importing carrier who cannot show that landed imported merchandise was properly released from Customs custody may be liable for liquidated damages and payment of duty on that merchandise. A custodian of

bonded merchandise who cannot account for merchandise in its custody may be liable for liquidated damages under the bond.

6.2 The primary document comprising the MDR for importing carriers and express consignment carriers is the original manifest page or the electronic equivalent for automated carriers, or a newly prepared manifest page for merchandise omitted in total from the manifest. Other documents, as listed below, may be used as the MDR in lieu of a manifest page. The MDR will be annotated at the top, "Manifest Discrepancy Report". The MDR must also contain in close proximity to the original quantity or description the statement, "AMENDED (QUANTITY or DESCRIPTION)_____". The filer must include a clear and concise statement as to the reason for the discrepancy and must include a signed statement of the owner/operator/agent or responsible party for the inward or bonded carrier or other entity preparing the MDR.

6.3 The statement is as follows, "I declare that the information contained on this document is true and correct to the best of my knowledge and belief and that the discrepancy described herein occurred for the reason stated". Also included should be a signature of a company representative, the company name, and date.

6.4 Bonded carriers may use a modified copy of the in-bond document (CF 7512, TACM, bill of lading, and air waybill) as the MDR. A copy of the MDR must be provided to the importing carrier for use in the correction of the Inward Foreign Manifest (IFM).

6.5 Container Freight Stations (CFS) and Bonded Cartmen (CHL) may use a modified copy of the transfer document, cartage document, manifest, bill of lading, or air waybill as an MDR. A copy of the MDR must be provided to the importing carrier for use in the correction of the IFM.

6.6 Customs Bonded Warehouses shall use the procedures outlined in Part 8 of the Bonded Warehouse Manual for the reporting of discrepancies. A copy of the MDR must be provided to the importing carrier for use in the correction of the IFM.

6.7 Foreign Trade Zone (FTZ) proprietors may file MDRs on company letterhead, or on an Application for Foreign Trade Zone Admission (CF 214). A copy of the MDR must be provided to the importing carrier for use in the correction of the IFM.

6.8 Importers/brokers/filers may file an MDR by letter to Customs. A copy of the MDR must be provided to the importing carrier for use in the correction of the IFM. Entries filed prior to the discovery of a discrepancy may be canceled or relieved from duty if a copy of the carrier's MDR is attached to a copy of the letter to non-importation or nondelivery to the satisfaction of the Port Director.

6.9 Pre-existing commercial documents related to the merchandise in question may be used as supporting documents to substantiate an MDR. These documents may include bills of lading, signed affidavits, exporter's and shipper's messages and telexes, and any other document that would substantiate the filer's claim.

6.9.1 In accordance with 19 USC 1508(c)(1), documents supporting claims of discrepancy must be retained for a period of five years from the date of entry or exportation. The filer's records will be subject to audit and verification by the Customs Post Audit Team.

6.10 AMS carriers and participants must transmit an electronic MDR each time a manifest discrepancy occurs.

6.11 Non-AMS carriers and operators must file MDRs at a place designated by the Port Director or at the first port of entry where the discrepancy was discovered for every manifest discrepancy that occurs.

6.11.1 Documents supporting the claim of discrepancy should be attached to the MDR. The MDR will be accepted whether or not documentation substantiating the reason for the discrepancy is attached; however, penalties may be assessed for lack of this substantiation. If documents are not attached, the filer should collect and retain the documents to substantiate claims for post audit reviews.

6.12 For all carriers, AMS or Non-AMS, including Express Courier Consignment Facility (ECCF) operators, an electronic transmission or paper MDR must be made immediately upon discovery of the discrepancy. Manifest Discrepancy Reports must be electronically transmitted or otherwise submitted within the reporting period as prescribed by regulation after entry of the importing conveyance to avoid penalty actions.

6.13 All carriers, whether automated or not, in-bond carriers, bonded warehouse proprietors, Foreign Trade Zone operators, and Container Freight Station operators must electronically transmit or otherwise submit MDRs immediately upon discovery of the discrepancy. Manifest Discrepancy Reports must be electronically transmitted or otherwise submitted within the reporting period as prescribed by regulation after receipt of merchandise to avoid penalty action.

6.14 All Importers, whether automated or not, must transmit or paper file MDRs immediately upon discovery of the discrepancy. Manifest Discrepancy Reports may be electronically transmitted or otherwise submitted within the reporting period as prescribed by regulation after permit or entry of the merchandise to avoid penalty action. A penalty for late reporting may be assessed when the MDRs are received by Customs after the reporting period.

6.15 Except as provided in 4.12 CR (discrepancies in bulk petroleum or petroleum products exceeding one percent), an MDR will not be required when the Port Director is satisfied that the difference between the quantity of bulk merchandise listed on the manifest or bill of lading or air waybill, and the quantity unladen, is the usual difference caused by absorption or loss of moisture, temperature, faulty weighing at the port of lading or other such reason.

6.16 An MDR will not be required when there is a difference between the marks or numbers on break-bulk shipments and the marks or numbers shown on the manifest, so long as the quantity and description are correctly given.

6.17 Post Audit Teams have basic responsibility for enforcement of manifest accuracy. Post Audit Teams must audit carrier records to ensure that substantiating documentation is obtained by the carriers and held on file whether or not an MDR was required or filed. Post Audit Teams will assess penalties and/or liquidated damages when audits reveal discrepancies that violate Customs laws or regulations, or when documents that are used to support discrepancy claims are found to be unacceptable or not present.

6.17.1 Post Audit Teams must also ensure coordination with the Manifest Review Units (MRU) so that local guidelines are developed for MRU review of appropriate MDRs.

6.17.2 Customs Officers (including CET) discovering any discrepancy as listed in this directive should prepare an MDR. A copy must be provided to the carrier and to the audit team. The Customs Officer initiated MDR should follow the formats described elsewhere in this directive and should be annotated at the top, "Customs Initiated Manifest Discrepancy Report". The remaining pertinent information will be completed by the Customs Officer. The filer statement and certification will be not be required on the Customs initiated MDR.

7. MEASUREMENTS. The Director, Field Operations, Customs Management Center, will ensure that ports under their jurisdiction are in compliance with this directive via management controls.

Acting Assistant Commissioner
Office of Field Operations